

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Herbert C. Patterson, #18492-018;)	C.A. No. 6:05-0487-TLW-WMC
)	
Petitioner;)	
)	
vs.)	ORDER
)	
John J. Lamanna, Warden, Edgefield)	
Federal Correctional Institution;)	
)	
Respondent.)	
_____)	

The Petitioner, proceeding *pro se*, brings this action seeking habeas relief pursuant to 28 U.S.C. § 2241. Petitioner is incarcerated at FCI-Edgefield, having previously pled guilty to drug conspiracy charges. Petitioner seeks to have his sentence credited for time served before federal sentencing. Petitioner also asserts that errors were made in the presentence report and sentencing guidelines in his criminal proceeding.

On April 14, 2005, United States Magistrate Judge William Catoe, to whom this case had previously been assigned pursuant to 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2) (D.S.C.), filed a Report and Recommendation (“the Report”). In his Report, Magistrate Judge Catoe recommends that the Petitioner’s complaint be dismissed without prejudice and without requiring the Respondents to file an answer. On May 2, 2005, Petitioner filed objections to the Magistrate’s report.

This Court is charged with reviewing the Magistrate’s report and the Petitioner’s objections thereto. In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections. . . . The Court is not bound by the recommendation of

the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F.Supp. 137, 138 (D.S.C. 1992)

(citations omitted).

In light of this standard, the Court has carefully reviewed, de novo, the Report and the objections thereto and has concluded that the Report accurately summarizes this case and the applicable law. For the reasons articulated by the Magistrate Judge, it is hereby **ORDERED** that the Magistrate Judge's Report is **ACCEPTED** (Doc. # 5); Petitioner's objections are **OVERRULED** (Doc. # 6); and Petitioner's complaint is dismissed without prejudice for failure to state a claim upon which relief may be granted.

IT IS SO ORDERED.

S/ Terry L. Wooten

TERRY L. WOOTEN
UNITED STATES DISTRICT JUDGE

November 15, 2007

Florence, South Carolina